

the Head Sirkar Vakil, the Additional Head Sirkar Vakil, the Financial Secretary and the Secretary to Government in the Development Department. The committee will start work as soon as possible and report by the end of the year on the scheme indicated above and the best means of initiating it with due regard to all the interests concerned.

(Sd.) N. KUNJAN PILLAI,
Chief Secretary to Government.

Trivandrum,
20th October 1936.

(True copy)

LEGISLATIVE BUSINESS.

THE TRAVANCORE AGRICULTURISTS' RELIEF BILL—(contd).

Clause 34—(contd).

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, when we rose last evening I was telling the House that the most important point to be considered in the determination of the question now before the House was whether Clause 34 as it is now in the Bill is not intended, or at any date does not operate, for the benefit only of the rich debtor. By the rich debtor I mean that debtor who is really able to pay the debts out of his assets. I do not treat the planter as a rich debtor merely because he is a planter. The point to be considered is whether there should be any provision which is intended merely for the benefit of the rich debtor. I do not object to any benefit being conferred on the rich man too provided that it does not result in unmerited disadvantage to another man. What the House has to decide is whether it is necessary to put in an expropriatory provision which is only for the protection of the rich debtor? When there is another provision, which operates to give this retrospective reduction in the case of a poor debtor I ask what is the purpose of this new provision in clause 34 unless it is to be for the benefit of the rich debtor only. It is worth considering why, while we have already a provision in Section 19 which can be availed of by the poor debtor, there should be a provision like Section 34 with retrospective effect.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know whether the Law Member's amendment itself makes any distinction between the rich debtor and the poor debtor?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, Sir, my amendment does not, for the simple reason that it touches only future interest which is sought to be limited to six per cent. As for the matter of that, we have the century old law which limits interest to 12 per cent and that does not make any distinction between the rich and poor debtor. My provision is analogous and would operate only for a future three years. And it is not expropriatory.

in any sense. The Clause as it now is in the Bill is intended for the rich debtor only. That is what I want to make out.

MR. K. C. ABRAHAM (*Kottayam II*): Does this provision apply to every person?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am glad that Mr. Abraham is coming round to my point of view. When Section 19 is there and will enable the poor debtor to prove his inability and claim reduction of past interest exactly as Clause 34 contemplates, what is the purpose of Clause 34 unless it be to profit the man who is able to pay his debts.

MR. K. C. ABRAHAM (*Kottayam II*): Why not Section 34 be scraped altogether?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is exactly what I propose. I want to lay down another rule to operate for the future only.

MR. K. R. ELENKATH (*Kalkulam I*): In view of the amendment to Clause 3 which has been passed whether facility is given to the Conciliation Board?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. The real point is that the rich debtor is not prepared to face the Conciliation Boards.

MR. K. C. ABRAHAM (*Kottayam II*): Is there any large section of the agriculturists who are not prepared to go before the Conciliation Board?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, Sir, unless he is afraid of disclosing his assets. Sir, I have been pointing out too that this provision in Clause 34 is expropriatory. One honourable member cited a number of statutes to say that this is not expropriation. By expropriatory provision we really mean that the Law by itself, of its own, deprives a man of his property. Further, I am sure that the honourable member who quoted these statutes will note that wherever there was expropriation, there was also a compensation for it. Here I contend that there is not even a pretext, or a shadow of compensation.

Sir, it was argued that even conciliation is expropriation. No, it is not. It is perfectly voluntary and by conciliation, the legislature is not taking away any property from the person who holds it. The property will be lost to him only when he agrees to the conciliation.

Sir, reference was made to the Agricultural Debt Redemption Committee's proposals. It was stated that they proposed reduction of interest with effect from 1105. But the members who cited that forgot or overlooked the fact that the Committee had put a condition to this recommendation and that may be seen on page 66. "The Committee propose that this concession rates should be available only to those who pay the rate within a fixed date fixed by the Government". On this Clause, I remember that Mr. Sambasiva Aiyar brought in at the second reading

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of the Bill an amendment to make this provision, namely that this reduction of interest should be available only to the man who was prepared to pay down the reduced interest. That was rejected by the House. Further the A. D. R. Committee made certain exceptions as regards banks and such other bodies. The original Bill that was introduced in this House did not contain any provision for the reduction of interest from 1105, whether with conditions or without conditions, and whether in favour of the rich debtor or the poor debtor. When the Bill went before the Select Committee of this House they wanted to make provision for the reduction of interest from 1105. I shall not disclose the discussions that took place in the Select Committee. The question must have naturally arisen there as to who should get the benefit of such retrospective reduction of interest. They must have found that the poor debtor must get the benefit and it was not practicable to saddle him with conditions. Therefore apparently the Select Committee put in the provision that we now find in Clause 19; and in accepting it the Government have practically accepted the suggestion made by the Debt Redemption Committee. The benefit of Clause 19 is clearly available to the poor debtor. Why then make another provision to help the rich debtor who is really able to pay? It was out of respect to the Select Committee that the Government accepted the provision contained in Clause 19; that was not originally their idea to have such a provision in the Bill.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): No question of any distinction between the poor debtor and the rich debtor was brought in before the Select Committee of which I was also a member. It is an incorrect statement, a mis-statement, that the Law Member is now making to misguide the House.

PRESIDENT: I take it that honourable members on both sides of the House are aware that what passed in the Select Committee is not to be referred to here.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I was explaining the purport of the Clauses introduced by the Select Committee as anybody may read them and make inferences. I am not privileged, I am not entitled to refer to what actually took place in the Select Committee; if that were permissible I would challenge Mr. Kunjukrishna Pillai.

PRESIDENT: Order, order.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, the object of the Select Committee could have been only that the poor debtor should get the benefit of the retrospective reduction of interest, and not the rich debtor who is able to pay but who does not apparently want to pay. It was only later, in this House, that those who were responsible for the provision now in the Bill, wanted to extend the same benefit to the rich debtor also.

In regard to the expropriatory nature of the provision, the chief defect is that it is highly unjust to the creditor. Even assuming that

the individual creditor may be compelled to put up with it, there is the larger question of public interest because the credit within the country will suffer. As I said yesterday, immediately after this Clause was passed, the creditor class was up in alarm. It must not be understood that I am in any way suggesting that the Government were intimidated by them. I am referring to it only to show that the creditors must have honestly felt alarm in that they could not bear this unconditioned reduction of interest. I do not think anybody will question the honesty of these people. It may be said that they are misguided, heartless and cruel and all that; but certainly, they are not dishonest. That shows the effect of the Clause on the creditor classes. It is clear that if we allow this provision to stand, none of them would in future be prepared to trust anybody else with their money. Mr. E. V. Krishna Pillai asked— 'They have plenty of money. What will they do with it? They will be obliged to lend.' A scholar like Mr. E. V. Krishna Pillai need not be told എന്തിനും പണം; that is known to everybody. Travancore is a small part of the world and there is ample room elsewhere for all this capital. Mr. Chidambaram Pillai gave direct evidence that capital had already begun to fly away from Travancore. Credit is very important to every country, particularly to Travancore at the present moment. Agriculture has ceased to be a paying proposition. Some kind of subsidiary occupation has become an absolute necessity for the agriculturist and that has to be found. As the House knows, Government are taking steps to industrialise the country. Credit has therefore become even more necessary now than it was till now. We must have somebody to finance the agriculturist in his subsidiary industry or other occupation. Without that, where is the industry and where is the occupation?

MR. S. J. NAIR (*Nedurangad*): May I ask whether, in Travancore, at any time, the bankers have financed the agriculturists?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I should not be surprised if they refuse to do so if it so happens that this Clause is retained.

In my first speech itself, Sir, I tried to explain how this provision is not really useful to the bulk of the debtors, since any amount of reduction in the interest alone would not afford them adequate relief. They stand in need of the principal itself being cut down considerably. This provision will benefit only the rich debtor who is really able to pay but is not willing to pay. Sir, the sponsors of this provision, while benefiting the rich debtor, are doing their worst to the poor cultivator. That has been very clearly explained by Mr. T. P. Velayudhan Pillai; and I am not surprised that, as a result of the very shrewd observation made by him, Mr. T. K. Velu Pillai reconsidered his position and changed his opinion. The provisions relating to conciliation lay down that if a creditor does not accept the award of the Conciliation Board he may be mulcted with loss of interest from 1105 by the court. That is the penalty imposed for not accepting the award of the Conciliation Board. Now this Clause 34 says that all creditors, those who are agreeable to accept the award of the Conciliation Board, and those who are

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not agreeable should alike suffer loss of interest from 1105. If that is to be so, Mr. Velayudhan Pillai very rightly asks, which creditor will care to go before the Conciliation Board, to see what its award is like ; because, whether he accepts it or rejects it, he is going to suffer loss of interest from 1105. This provision therefore would nullify all the provisions relating to conciliation and make conciliation provisions useless. What more harm can this House do to the agriculturists of the country? The only real and substantial remedy that the poor cultivator gets and can expect to get under this Bill is that his debts may be conciliated by the Conciliation Officer. If that provision is going to be made ineffective, if the creditor is going to be induced not to care a jot for the award of the Conciliation Officer, who is it that is going to suffer? Only the poor cultivator. Clause 19 is there already in the Bill. Why then incorporate an identical provision again in Clause 34, especially when it is likely that such a course of action will prejudicially affect the bulk of the agriculturist debtors in the country? Therefore, as very rightly pointed out by Mr. T. P. Velayudhan Pillai, those honourable members of this House who want to be friends of the rich debtor are actually turning out to be the worst enemies of the poor cultivator. Let it be on their conscience if by reason of their action, the poor cultivator suffers ; it will not be on mine. I hope the House will bear this in mind when it divides on this amendment.

In regard to Mr. Sambasiva Aiyar's amendment, his point is that if an agriculturist is willing to pay additional interest in cash, he must be allowed to do it. No doubt, there is some principle in it. But having regard to the conditions here and having regard to the recommendations made by the Debt Redemption Committee, I am not prepared to accept Mr. Sambasiva Aiyar's amendment. I would rather protect the agriculturist even against himself. After all, the present measure is only for a period of three years.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): Before you put the question, Sir, permit me.....

PRESIDENT: I am rather surprised that the honourable member is not able to make himself heard.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): Allow me one minute, Sir, to explain an apparent inconsistency in my attitude, that has been pointed out by the Law Member. It was stated that on two former occasions I stated that some discrimination must be made between debtors who are able to pay and debtors who are not able to pay their debts and that now I have taken up a position altogether different. Sir, every one will admit that if a sentence or a line is taken out of its setting, it can be made to bear a meaning different from what it was intended to.

In regard to the Proclamation referred to by Mr. Kayalam Paramesvaran Pillai, it provided for the whole-sale staying of all decrees passed by courts against agriculturists, for three months. I said that in taking a step with such far-reaching effects, some discrimination

should be made between those who are able to pay and those who are not able to pay. I do not see any contradiction between that and my present statement which relates to a small question of reduction of interest during a short period.

The report of the Debt Redemption Committee, which was referred to by Mr. T. K. Velu Pillai, makes various suggestions of a drastic nature. For instance, it was suggested that the principal itself must be scaled down to 60 per cent. Another suggestion was that hypothecatees should be satisfied with whatever they are able to realise by the sale of the security. There were also other suggestions of a similar nature under consideration. I said that when suggestions of such far reaching character are made, a certain amount of discrimination would not be out of place.

I do not understand, Sir, what connection there is between that and the present simple provision for reduction of interest from a certain period. The House will bear in mind.....

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I should think, Sir, that the personal explanation is over.

PRESIDENT: The honourable member will resume his seat.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I have not kept back anything. I shall read out in full the relevant portion from the proceedings of this House. That is at page 176 of the debates of 23rd May 1935.

"MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is the member against the stay order irrespective of the decree amount?"

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): In the case of agriculturists who are unable to pay their debts the decrees against them may be stayed whether charged on immovable property or merely personal. My point is, in the case of an agriculturist a distinction should be made between one who is able to pay and one who is unable to pay his debts.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): With reference to that, take the case of an agriculturist who, when his lands are sold, may be able to pay debts. Still he is an agriculturist. What does the member say to that?

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): That is rather a difficult point. If he is ruined by the sale of lands, he may have nothing to live upon. In such a case I would extend the benefit of the Proclamation to him. If without detriment to one's livelihood, if his debts could be discharged by executing the decree he should be excluded from the definition of 'agriculturist' for purposes of the Proclamation. Relief should be given only to deserving persons who are unable to pay debts."

It was only this that I was pointing out.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): I cannot understand what these statements have to do with the present question. Again, the Law Member makes no discrimination between those who are able to pay and those who are

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unable to pay their debts in regard to the reduction of future interest for three years from the commencement of the Regulation.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I rise to a point of order. The member is entitled only to give a personal explanation. He cannot make a speech.

PRESIDENT: I have allowed the member to speak.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur cum Pattanapuram*): So, I maintain that no such distinction need be made in regard to past interest also. I was therefore quite justified in saying that the past interest also should come within the scope of the Bill. I cannot understand when the Law Member does not make any such discrimination in respect of future interest. He can object to the giving of the benefit of the provision relating to past interest to all debtors irrespective of their ability to pay or not.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): In view of the fact that the Law Member does not want to accept my amendment, I do not press it.

The two amendments moved by Mr. Sambasiva Aiyar were, by leave, withdrawn.

The original amendment was then put and carried.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): I demand a poll.

A poll was taken with the following result:

AYES.—35

1 Mr. N. Abdur Rahiman Sahib	20 Mr. K. Madhavan
2 „ C. V. Chandrasekharan	21 „ K. Mahomed
3 „ S. Chattanatha Karayalar	22 „ P. C. Narayanan Bhattatiri-
4 „ P. Chidambaram Pillai	pad
5 „ A. S. Damodaran Asan	23 „ G. Nilakantan
6 „ K. George	24 Rao Sahib S. Paramesvara
7 „ M. Mahomed Haneef	Aiyar
8 „ M. K. Janardana Kamath	25 Mr. Kayalam Paramesvaran
9 „ T. S. Jayantan Nam-	Pillai
bootiri	
10 „ N. John Joseph	26 „ R. Pitchu Aiyangar
11 „ J. M. Joseph	27 „ V. Ramakrishna Panickar
12 „ T. C. Joseph	28 Rao Bahadur A. Rengasvamy
13 „ K. C. Karunakaran	Iyer
14 „ N. Kesava Panickar	29 Mr. R. Sambasiva Aiyar
15 „ T. T. Kesavan Sastri	30 „ R. Sivaraman Nair
16 „ K. P. Krishna Menon	31 „ K. Madhava Kurup
17 Rao Bahadur Dr. N. Kunjan	32 „ John Whitely Tolson
Pillai	33 „ G. B. E. Truscott
18 Mr. E. K. Kunjuraman	34 „ T. P. Velayudhan Pillai
19 „ C. O. Madhavan	35 „ T. K. Velu Pillai

NOES.—29.

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| 1 Mr. A. Achyuthan | 16 Mr. K. M. Kuriakose |
| 2 „ K. C. Abraham | 17 „ M. K. Madhavan Pillai |
| 3 „ T. K. Alexander | 18 „ K. A. Narayana Pillai |
| 4 „ V. T. Chacko | 19 „ Pacode A. Narayana Pillai |
| 5 „ A. Easwara Pillai (<i>Kottarakara</i>) | 20 „ S. Nilakanta Pillai |
| 6 „ Antony George | 21 „ K. Padmanabhan |
| 7 „ S. J. Nair | 22 „ Edavanat S. Padmanabha Menon |
| 8 „ T. C. Joseph | 23 „ Kainikkara M. Padmanabha Pillai |
| 9 „ K. M. Krishnan | 24 „ Changanacherry K. Paramesvaran Pillai |
| 10 „ Pottayil S. Krishna Panickar | 25 „ A. Thanu Pillai |
| 11 „ E. V. Krishna Pillai | 26 „ S. Tiraviam Nadar |
| 12 „ N. K. Krishna Pillai | 27 „ P. K. Thomas |
| 13 „ Puthupalli S. Krishna Pillai | 28 „ N. E. Varughese |
| 14 „ T. Krishna Pillai | 29 „ V. K. Velappan Nair |
| 15 „ K. Kunjukrishna Pillai | |

NEUTRALS—6.

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|----------------------------|--|
| 1 Mr. R. Raman Pillai | 5 Mr. A. Easwara Pillai (<i>Kalkulam II</i>) |
| 2 „ P. C. Kuriyan | 6 „ M. Sivatanu Pillai |
| 3 Srimati T. Narayani Amma | |
| 4 Mr. K. R. Elenkath | |

The amendment was declared carried.

Clause 35.

PRESIDENT : To Clause 35, Mr. Sambasiva Aiyar has given notice of some amendments which are not connected with any amendment proposed by or on behalf of Government. I therefore rule them out of order.

Clause 36.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I beg to move:

“For the first paragraph of Clause 36, substitute the following, namely:—

‘Notwithstanding anything in any law, contract, decree or order of Court, no interest shall accrue, or be permitted to be recovered as accruing, for a period of three years from the date of the commencement of this Regulation in respect of any debt, due in paddy or grain, and in existence on such date, at any rate exceeding nine per cent. per annum’.

Sir, I shall not speak at length on this amendment because its principle is really the same as of the amendment that has been carried just now. The only difference is that this applies to debts due on paddy while the other applies to money debts. This Clause, further, makes it quite clear that the interest that has been paid must be refunded. The present Clause 36 of the Bill reads:

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"Notwithstanding anything in any law, contract, decree or order of Court, no interest shall be considered to have accrued or to accrue or be permitted to be recovered as accruing from and after the 1st of Chingam 1105 up to the termination of three years from the date of the commencement of this Regulation, in respect of any debt, due in paddy or grain, at any rate exceeding nine per cent. per annum."

So, according to this provision as it stands no interest can be considered to have accrued and therefore if any amount has been paid as interest it must be refunded. I commend my amendment to the acceptance of the House.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put and carried.

Clause 38.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I beg to move:—

For Clause 38, substitute the following, namely:—

"38. If any transaction which is in existence on the date of the commencement of this Regulation and which purports to be a usufructuary mortgage (*Otti*) is proved to have been intended to be only hypothecation, such transaction shall, notwithstanding any law or custom to the contrary be treated, for a period of three years from such date, as a hypothecation which came into existence on such date.

Illustration. — A lent Rs. 1,000 to B and took a usufructuary mortgage of B's property and leased the mortgaged property to B reserving an annual pottom of Rs. 120 intending to provide thereby for the interest due on the money lent and this transaction is in existence on the date of the commencement of this Regulation. This transaction may, for a period of three years from the date of the commencement of this Regulation be treated as a hypothecation that came into existence on such date and during that period the rights between the parties may be adjusted; on that basis".

Sir, this Clause is to be substituted for Clause 38 that now finds a place in the Bill. On a comparison of the two Clauses, it will be seen that considerable restrictions are proposed by the amendment that I move. I think I will be right in saying that the proposed Cause is intended only to carry out the intentions of the original Clause. The Clause as it stood originally applied to all transactions whether they were in existence on the date of the passing of this Regulation or whether they came into existence after that date. It was not the idea of those who supported the Clause to prohibit future transactions. They never wanted that future mortgages and leases back should be prohibited. A mortgage or lease back is considered to have some advantages because it would avoid protracted suits and will save interest from accumulating. In any event it was nobody's idea that such transaction should

be prohibited in future. Therefore one of the provisions in the present amendment is that this law will apply only to transactions in existence on the date of commencement of this Regulation. Again, it was pointed out that it may lead to difficulties in regard to limitation and that poor creditors will be deprived of their moneys if it becomes a hypothecation with effect from the very date of the transaction. According to the law of limitation a hypothecation bond will be barred after 12 years. With a view to prevent such consequences I have put in a Clause to the effect that these mortgages will be treated as hypothecations that came into existence on the date of commencement of this Regulation.

Then again the object of this Bill is to give relief to the agriculturists because of the economic depression and attendant causes. The Clause should therefore operate only for a period of three years from the date of commencement of this Regulation.

MR. A. THANU PILLAI (*Trivandrum-Rural*): May I know from the member whether he means by the words "for a period of three years" in respect of a period of three years from such date or *during* a period of three years from such date?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): For a period of three years beginning with the commencement of this Regulation. After that, it will again become a mortgage. Sir, I do not intend that this law should operate for an indefinite period. Many other provisions of this Bill operate only for three years. During this period of three years the debtor will get all the benefits. If provided in respect of other transactions a suit is filed, for instance, he can get a decree for payment in instalments. The only remedy that the creditor will have will be a suit for money and not for recovery of property. If a suit is brought for money the debtor has the opportunity of claiming the benefits available under this measure. If he goes to the Conciliation Officer, he can get his debt conciliated. This amendment is therefore necessary and useful in order to bring out the original intention of the framers of this Clause. I commend this amendment to the acceptance of the House.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

PRESIDENT: To Clause 38 I have received notices of various amendments and one notice was given by Mr. Thanu Pillai at 12-10 P. M. to-day. I do not propose to shut it out. I allow that amendment. The next amendment stands in the name of Mr. R. Sivaraman Nair.

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): Sir, I beg to move the following amendment:

In amendment No. 12 to Clause 38 after the word "treated" insert the following words, "for the purpose of this Regulation".

The amendment now brought forward by the Law Member was not present in the original Bill. But the Select Committee made certain recommendations of this sort. In North Travancore there are some mortgages which are said to be intended to be only hypothecation deeds. Arrangements are made in such a way that the mortgagor will

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be in possession of the property. The provision inserted by the Select Committee is as follows :—

"If any transaction which purports to be a usufructuary mortgage (*otti*) is proved to have been intended to be only a hypothecation such transaction shall, notwithstanding any law or custom to the contrary, be treated as a hypothecation for the purpose of this Regulation".

All that the Select Committee wanted was that the usufructuary mortgages may be treated as hypothecation deeds for the purpose of this Regulation. After the Select Committee, in this House several amendments were moved and there was a good deal of discussion. The words "for the purpose of this Regulation" were retained even after that long discussion. The Law Member has deleted them now. If those words are there, the usufructuary mortgages may be treated as hypothecation deeds only so far as it concerns the purpose of this Regulation and not for other purposes. In cases where the question of limitation arises hardship may be caused to the creditor, I mean the mortgagee. If at the end of the term of the mortgage it is treated as hypothecation deed it is certainly a hardship. The Select Committee went into that question and decided to retain the words "for the purpose of this Regulation". By taking away those words, the general law which is now administered in courts of law will have to be suspended so far as these transactions are concerned for a period of three years.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): May I know in what way is the general law offended by the deletion of those words?

MR. R. SIVARAMAN NAIR (*Tiruvalla II*): What I said is, by the retention of those words in the Section the general law will be suspended only to the extent it is necessary for the purpose of carrying out the intention of this Regulation and not any further.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I do not propose to move my amendment. But I second the amendment of Mr. Sivaraman Nair.

PRESIDENT: Perhaps the best plan would be to allow the various members who have given notice of amendments to move them one by one and then have a discussion on the subject.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I will second the amendment of Mr. Sivaraman Nair instead of moving my amendment.

PRESIDENT: The honourable member is at liberty to speak after all the amendments have been moved on the subject.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I beg to move the amendment standing in my name. It reads as follows:—

"In amendment No. 12, to Clause 38 add the words "for the purpose of this Regulation".

I endorse all the points urged by Mr. Sivaraman Nair in this connection. One other point I have to state is this. This Bill practically is intended to meet an extraordinary situation. Part 3 of the Bill embodies certain temporary provisions relating to future interest.

for a period of three years. There is Section 33 which deals with instalment payments. Part 5 of the Bill *i.e.*, Clause 38 should have found a place in Part 3 because according to the amendment now moved by the Law Member and according to the original intention of the Agricultural Debt Redemption Committee, all these relief measures are to be afforded to the agriculturists who have borrowed money that is to say, other than the class of debtors in the amendment of the Law Member. It is only just to confine relief to other debtors as well. Some debtors were given relief by way of reduction of future interest. Let these persons also be given some kind of relief, that is to say, let them be given reduction in part in the rate of interest to the extent of 6 per cent.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I know whether it is the member's idea that during this period it shall be open to the mortgagee to recover the property from the mortgagor.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): The creditor can recover the property from the mortgagor.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): If the mortgagor is not allowed to have the property, then what is the meaning in saying that the rate of interest is reduced to 6 per cent.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): There are occasions when property may be fetching more than 6 per cent interest. There is no question of rent at all. When the debtor has to pay interest certainly the property should be in his hands. There is no reason why one debtor should be asked to pay more interest than the other class of debtors. In view of the provision that we have passed it is only legitimate that they should also be afforded relief. In this connection I will refer to the recommendations of the Agricultural Debt Redemption Committee. This is what they say on page 87.

PRESIDENT: There is another amendment standing in the name of Mr. Sambasiva Aiyar.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): That is only a consequential amendment.

PRESIDENT: The following is Mr. Thanu Pillai's amendment. I will read it for the information of the House.

Add the following after the words:

"On such date" in line 7, "provided that nothing in this Section shall exempt the mortgagor from liability for arrears of pottom, if any, due in respect of such transaction for any period previous to such date."

MR. A. THANU PILLAI (*Trivandrum-Rural*): Sir, the Law Member's amendment is to this effect:--

"If any transaction which is in existence on the date of the commencement of this Regulation and which purports to be a usufructuary mortgage (*Otti*) is proved to have been intended to be only a hypothecation, such transaction shall, notwithstanding any law or custom to the contrary, be treated, for a period of three years from such date, as a hypothecation which came into existence on such date."

He also says in the illustration that such transaction may be for a period of three years from the date of the commencement of this

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Regulation be treated as a hypothecation that came into existence on such date and during that period the rights between the parties may be adjusted on that basis.

To me it appears, difficulties would arise in such cases where transactions are to be settled during a period of three years from the commencement of this Regulation in respect of arrears of rent due for a period previous to the commencement of the Regulation. This is because it is stated that for a period of three years from the date of the commencement of this Regulation this transaction may be treated as a hypothecation, etc., etc. To make the position clear and to avoid such difficulties I beg to move my amendment. Add the following words after the end of the Clause and before the illustration :

"Provided that nothing in this Section shall exempt the mortgagor from liability for arrears of pattom if any, due in respect of such transaction for any period previous to such date."

After the period of three years there would be no difficulty because of the particular way in which it will be viewed and what it purports to be in the light of the document.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): In view of the amendment that has been moved by the Law Member and just now passed by this House I do not wish to move my amendment.

PRESIDENT : The amendments are now open to discussion.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Before the debate begins, I may say that I am prepared to accept Mr. Thanu Pillai's amendment.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): In opposing the amendment of Messrs. Sambasiva Aiyar and Sivaraman Nair I wish to offer a few remarks. I agree with the amendments of the Law Member and Mr. Thanu Pillai. This is a provision which did not find a place in the original Bill proposed by the Government. But it was thought necessary by the Select Committee that a provision analogous to the one that is now before the House should be introduced in the Bill in order that agriculturists especially of the northern half of Travancore might have the benefit of those reliefs which are conferred on agriculturists in other parts of Travancore. This kind of transaction is very prevalent in North Travancore. In order that the creditors might avoid the payment of income tax and to overreach the provision relating to the prohibition of compound interest they adopted a course of taking the mortgage of the property from the debtors and leasing it out again to the mortgagors themselves, on the condition that the stipulated rate of interest or *pattom*, as the case may be, be paid annually if not half-yearly. If this kind of transaction is allowed to be continued, the protection which is afforded to other kinds of agricultural debtors will be denied to those in North Travancore in toto. There are provisions in the Bill which would reduce the rate of interest to six per cent for a period of three years from the commencement of this Regulation. If this kind of transaction is

allowed to continue in its present form the law applicable to reduction of interest would not be applicable to such transactions. Even if the law regulating the reduction of interest is to be applicable during the period of these three years the mortgagee, if he is so minded, can get back the property by suing in a court of law on the basis of the lease. There is no virtue in the amendments of Mr. Sambasiva Aiyar giving a reduction of interest for a period of three years. He is aware that that provision can be nullified by a suit in a court of law and getting a decree for the recovery of the property covered by the lease. Even though the intention of the parties was to treat this kind of transaction as purely hypothecations the rules of law and of evidence would not allow the mortgagor to set up this contention and to adduce evidence that the real intention was only to treat it as a hypothecation. It is to avoid this and to give an opportunity to such agricultural debtors who are so minded to set up a contention in the court of law and give evidence to show that the real intention of the party was only to treat it as a hypothecation that this provision is sought to be included. My friend Mr. Sivaraman Nair wants the words "for the purpose of this Regulation" to find a place in the present Section as sought to be amended by the Law Member. Even though it appears at the outset that the amendment of Mr. Sivaraman Nair is very innocent, my submission is that it cuts at the very root of the beneficial provision that is sought to be enacted for the benefit of this kind of agricultural debtors. According to the definition of debt those transactions which partake of the nature of a lease are specially mentioned to be excluded from the purview of debt except for a single purpose, and that is for the purpose of conciliation, even if it can be considered to be a debt. The most important grievance of the agricultural debtors who happen to enter into this kind of transactions is that their land will be recovered from them if they happen to make default in their payments of interest. When such transactions are entered into between parties the actual yield from the property is never taken into consideration simply because of the fact that it was never thought likely that the possession of the property would pass to the mortgagee. So, if in future, payment of rent or *pattom* is defaulted by the mortgagor and the properties are allowed to be recovered by the mortgagee, he will be able to realise 12 per cent, nay even 24 per cent by way of interest because it was never thought necessary by the parties to take into consideration and ascertain the actual yield from the property. And because they had no idea of handing over possession of the property to the mortgagee what the mortgagee would ordinarily look into in such cases is only as to whether the properties would be sufficient to cover the principal money lent and the probable arrears of interest and costs that could be obtained. In such transactions the mortgagor ordinarily would not care to ascertain the actual extent or the probable income from the property because he was quite sure that he will be able to meet the demand in time and so there will not be any necessity to hand over the property to the mortgagee. But unfortunately owing to the

[Mr. Pottayil S. Krishna Panickar.]

economic depression in most cases he had to make default in payment of interest. I am sure that many of the honourable members who happen to represent the northern taluks of Travancore would agree with me that hitherto many decrees have been obtained for the eviction of the mortgagor and as such even if this provision is passed I fear very many of the agricultural debtors would go without any remedy whatsoever. Thus to save at least those against whom no decrees have been obtained, in fairness and equity, this amendment should not be accepted by this House.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): I also support the amendments brought forward by the Law Member and Mr. Thanu Pillai. As has been remarked by Mr. Krishna Panickar the effect of the two amendments proposed by Mr. Sivaraman Nair and Mr. Sambasiva Aiyar will forfeit the very intention of the provision. This is a trick played to find a means to evict a debtor from the possession of his property by the easiest method. Sir, the debtors can be grouped under two categories. There is one set of people who are willing to hand over possession of their properties to the creditors for the mortgage amount to avoid the responsibility of paying interest. There is another set of people who are not willing to part with their properties out of self-respect. They do not want other people to know that they are debtors and they will not be willing to part with their properties, and hence they are willing to satisfy the creditors by giving abnormal rate of interest by way of *pattom*. As I said there is another set of people who are willing to dispose of their properties. But at the same time the creditors want to avoid the provisions of the incometax law. According to the Income Tax Regulation, tax cannot be levied on *pattom* amounts, whereas if the interest is drawn by the creditor by means of a hypothecation deed the Income Tax Officer can catch hold of the creditor and levy income-tax on him. In order to avoid this the creditor himself demands such a procedure from the debtor and insists upon this condition by which the debtor seems to loose nothing. The result of it is that not only the creditor gets an abnormal rate of interest but Government also lose by way of loss in income tax collection. During my last discussion on the same subject I had brought to the notice of this House a specific instance of a case in which interest as high as 24 per cent. was drawn by a creditor with the help of such a document *viz.*, "Mortgage and Lease Back."

Again, Sir, according to the rules of the Land Mortgage Bank this sort of transaction cannot be dealt with. This is very hard on the debtor who cannot get the benefit of the Land Mortgage Bank. Sir, an amendment like the one by the Law Member is quite necessary for the purpose of regulating these Regulations *viz.*, the Agricultural Debt Relief Regulation and the Income Tax Regulation and also to satisfy the rules of the Land Mortgage Bank. Last time also this amendment was discussed at great length on the floor of the House. The effect of

the amendments brought forward by Mr. Sambasiva Aiyar and Mr. Sivaraman Nair will be nullifying all these, because according to them only for the purpose of the Debt Relief Regulation for fixing the *patton* can such documents be interpreted as an hypothecation deed. I submit Sir, that during last time also this question was elaborately discussed and a decision arrived at. By the amendments of Messrs. Sambasiva Aiyar and Sivaraman Nair that should not be set aside. Therefore I support the amendments brought forward by the Law Member and Mr. Thanu Pillai and oppose the other amendments.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I also wish to speak a few words on the amendment. The amendment of Mr. Kayalam Parameswaran Pillai appears to be defective in certain respects. That is why I thought that the amendment of Mr. Sivaraman Nair must be accepted by this House. That is to say the amendment as it stands, would throw a great deal of doubt upon the question as to whether the rent for the period prior to the commencement of this Regulation could be recovered by the hypothecatee. It is stated that the transaction must be treated to have come into force on the day of the commencement of the Regulation. The transaction includes the usufructuary mortgage as well as the lease. Both these have to be treated to have come into existence on the date of the commencement of the Regulation. If that be so, a suit for arrears of rent prior to the commencement of the Regulation does not arise.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is it the member's opinion that that will be the position even if Mr. Thanu Pillai's amendment is accepted?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): This is why I thought that this amendment requires some amendment. Now I find that Mr. Thanu Pillai's amendment removes that difficulty. So the Law Member's amendment as amended by Mr. Thanu Pillai can be accepted.

PRESIDENT: The honourable member does not seem desirous to prolong the discussion. Now I call upon Mr. Krishna Panickar to move his amendment.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): Sir, I do not move the amendment.

MR. R. SAMBASIVA AIYAR (*Kunnathnad II*): In view of the fact that Government do not seem to find their way to accept the amendment, I do not wish to move my amendment.

PRESIDENT: I now put the amendment of Mr. Kayalam Parameswaran Pillai as amended by Mr. A. Thanu Pillai's amendment, to vote.

The amendment was put to the vote of the House and carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I now move with great pleasure the last motion on this Bill, namely, that the Bill as amended be passed into law.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): I oppose the motion. In doing so I again appeal to Government that it ought not to become the law of the State. The Bill consists of five parts. Part I—Preliminary—consists of two Sections, short title and commencement. Part II deals with Debt Conciliation. Part III deals with temporary provisions regarding execution of decrees and interest. Part IV deals with the amendment of the Code of Civil Procedure, 1100, regarding execution of decrees, and Part V deals with mortgage and lease back.

With reference to Part I, Sir, my submission is that the definition of the term 'agriculturists' is too wide in scope to include almost all the sections of the population of the State and practically includes every person. The term 'agricultural debt' could include practically every kind of debt. Debts incurred for the purpose of trade, *jennikaram* dues, debts taken for the construction of palatial mansions, and debts incurred in connection with speculation in rubber industry, in short every kind of amount which a person owes to another is brought under this term. Sir, in no other part of India has a legislation been enacted without defining a term with due limitation. In this connection I should like to draw the attention to an observation made by the Honourable High Court to whom this Bill was referred only very recently. The High Court weighed with a larger judicial experience observed that the definition is very wide in range to include *jennikaram* arrears or rent due and other like debts. They further pointed out, Sir, that in Madras a sum of Rs. 200 is fixed as a limit to which that definition could be restricted. There is no reason why such a limit could not be placed in Travancore. The A. D. R. Committee themselves have observed on page 128 of their report that about 50 per cent of the total debt is owed by 10 per cent of all the debtors. It is the duty of the State to save this 10 per cent. of debtors. Now we confine ourselves to 50 per cent. of the debtors who have only 50 per cent. of the debt. The advantage of adopting such a definition is very beneficial.

Part II of the Bill deals with Debt Conciliation Boards, a step which the Government can reasonably take. But they should see that conciliation goes hand in hand with redemption of debt. My serious objection, Sir, is that there is no means or agency by which conciliated debt could be paid in actual cash to the creditor. Pay the creditor cash and let him go. Do not tell him further to take it in instalments. That is not fair. What I submit Sir, is let us restrict the term "agriculturist" and "agricultural debt" as is done in other parts of British India and in Mysore. The total amount of actual debt would come to about 12 crores of rupees. It is estimated to be about 25 crores of rupees. The balance of 12 crores of rupees—by a sum of three crores of rupees it is possible to pay in cash to all the creditors, by this means everybody is satisfied, the creditor as well as the debtor. The State can realise the amount in instalments from the debtors at a reasonable rate of interest, say 4 per cent. It is very easy for the State to raise a loan. The property of the debtor should be kept as security. But in conciliating

debts as provided in the Bill the creditor is compelled to satisfy himself with whatever amount is paid to him. What I submit is to pay him that amount in cash and not in instalments. By trying to help this small number of heavily indebted debtors it is not possible to undertake any measure to the satisfaction of both parties. That, Sir, is my chief objection. If however Government are not going to change the definition whatever relief is afforded will not be appreciably felt.

Part III of the Bill is a matter which has been discussed practically at sufficient length. Therefore I do not wish to take the time of the House. But I only submit that this proscription of interest *i. e.*, 6 per cent. for three years would certainly affect the credit of the country. My view, Sir, is that the general question of credit has not been considered properly. I am fortified in this opinion by the authority of the High Court. It would have been good if Government had consulted economic experts to settle this question. Our High Court itself was consulted only very late. We are not aware that the question has been referred to any economic expert. If they were consulted I am sure everybody who knows something about economics would see that the credit of the State should be allowed to remain unimpaired.

Then about Part IV. I have no objection to this Part. Now with reference to Part V, I might say the Government ought not to have expanded the innocent amendment. Government should not interfere with the law of the land pertaining to the vested rights of people. By the process of usufructuary mortgage very many transactions have been entered into and such transactions were in force forty or fifty years back, and are even now in force. When the [mortgage is in possession of a property to say suddenly that the transaction should be treated as hypothecation will introduce very many complications.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): May I know from the member how the Bill will affect the man who is actually in possession?

MR. R. SAMBASIVA AIYAR (*Kunnathnad II*): I was submitting, Sir, that the mortgagor is in possession as a tenant of the mortgagee. In most of these cases creditors are mortgagees. The majority of them are Jenmis who are Nambudiri Brahmins. When any of a Jenmi's tenant wants money he goes to the Jenmi who gives him his land. Now suddenly we hear that they have got to be usufructuary properties and must be treated as hypothecated transactions. And I may as well say that this Bill will also affect the law of limitation. I submit Sir, that I would invite a reference to the last passage of the memorandum of the High Court.

MR. S. J. NAIR (*Nedumangad*): Sir, I rise to oppose the Bill. The condition of the agriculturists in this State is too hard. The estimate of the total debts comes to 25 crores of rupees according to the Banking Enquiry Committee's Report. It comes up to 20 crores of rupees according to the Census Commissioner's Report. It is 40 crores of rupees according to the Report of the Economic Depression Enquiry Committee. Therefore, roughly it amounts to 38 crores of rupees. The

[Mr. S. J. Nair.]

number of agricultural debtors is 2 lakhs and 66 thousand and the average debt of an agriculturist is 1,450 rupees. The debt per acre is Rs. 180. All these facts are evident from the Report of the Agricultural Debt Redemption Committee. It was as a result of the recommendation made by that expert and able Committee, which was composed of responsible Government officials, that this Bill was drawn up originally. But at the stage of the second reading of the Bill, the members of this House composed mainly of the representatives of the agriculturists passed some amendments. One of the beneficent amendments that was passed was Clause 3, appealing practically to Government to set up Conciliation Boards covering the jurisdiction of the whole State so that all the agricultural debtors in the State be equally and simultaneously be benefited by the presence of the Conciliation Boards.

Sir, from what I have just now said it would be evident that the debt of the agriculturists in this State is too heavy. He is not in a position to suffer his debt and it would have been the duty of Government to bring in some legislation which would substantially render help to those suffering agriculturists. Now, as a result of the amendments, especially No. 1 that was brought forward by the Law Member, on behalf of the Government—and that was carried out—I find that the effect of this legislation in the matter of decreasing the sufferings of the agriculturists has been nullified.

PRESIDENT : Will the honourable member take some time ?

MR. S. J. NAIR (Nedumangad) : Yes, Sir

PRESIDENT : Now the House will adjourn and meet again at 2 P. M.

The House rose for lunch at 1 P. M. and re-assembled at 2 P. M. with the President in the Chair.

MR. S. J. NAIR (Nedumangad) : The agriculturist in this State is the backbone of the State. They are the main stay of our country. They are not merely knee-deep, but neck-deep involved in debt. This is the real situation to-day and this is evident from the Report of the A. D. R. Committee. The only remedy possible to save the agriculturists is the establishment of Debt Conciliation Boards. While carrying the amendment No. 1, that was brought forward by the Law Member at the instance of the Government, the expectations of the poor agriculturists in this State have been denied. I do not say it is totally denied, because as a result of this amendment there is no compulsion on the part of Government to establish different Conciliation Boards throughout the State so that the whole jurisdiction of the State may be covered by all the Boards. Now the agricultural debtors have no remedy to have their debts conciliated on reasonable grounds.

Again, another good feature of the Bill was the limitation of interest on past debts. Sir, as a result of the amendment that was carried on

by this House that right has been denied to them. Now, practically the condition of the agriculturists is that of Antonio in Shakespeare's Merchant of Venice. (*Laughter.*) And the part that is being played by the money lending class in this State is that of Shylock. Well, the State has failed to play the part of Portia (*Laughter*), and the Shylock's propensities still continue and the helpless condition of the Antonios, the poor agriculturists in the State; continues and they are left helpless and the Bill does not help the interests of the agriculturists in the State at all. For these reasons I oppose the Bill.

MR. M. K. JANARDANA KAMATH (*Commerce and Industry, North*): Sir, I strongly support Mr. Sambasiva Aiyar. And in doing so I do not want to encroach upon the valuable time of this House by repeating what has already been said by him. The very words of Mr. Sambasiva Aiyar will prove that. If this Bill is enacted it will not afford any relief to debtors but will cause great hardship to the creditors as well as to the debtors. As a representative of the merchants I too insist that this Bill will no doubt go against all the interest of the commercial business; so I oppose this Bill.

MR. T. S. JAYANTAN NAMPUTHIRI (*Travancore Jenmies North*): സർ ഈ ബിൽ നിയമമാക്കണമെന്നുള്ള ഓമെമ്പാരുടെ ഉപക്ഷേപത്തെ ഞാൻ എതിർക്കുന്നു. ബില്ലിലെ പല വകുപ്പുകളും രൂപീകരിച്ചിട്ടുള്ളത് നിലവിൽ ലിരിക്കുന്ന സാമാന്യ നിയമങ്ങളെയും ഉത്തമർണ്ണരുടെ രക്ഷയെയും ഒട്ടുംതന്നെ പരിഗണിക്കാതെയാണെന്നു പറയാതിരിക്കുവാൻ നിവൃത്തിയില്ല. ഈ ബിൽ നിയമമാകുന്നപക്ഷം അത് ഞാൻ പ്രാതിനിധ്യം വഹിക്കുന്ന ജന്മി നിഃയാജകമണ്ഡലത്തെ എത്രകണ്ടു ബാധിക്കുമെന്നു മാത്രമാണ്. ഈ പ്രസംഗംകൊണ്ടു ബോധ്യപ്പെടുത്തുവാൻ ഞാൻ ഉദ്ദേശിക്കുന്നതു ഒന്നാം ഭാഗത്തിൽ കർഷകൻ കാർഷികക്കടങ്ങൾ എന്നു രണ്ടു പദങ്ങളുടെ നിർവചനമാണ് പ്രധാനമായിട്ടുള്ളത്. കൃഷിയുമായ യാതൊരു ബന്ധവുമില്ലാത്തവരെയും കർഷകരെല്ലെന്നു സർവത്ര അംഗീകരിക്കപ്പെട്ടിട്ടുള്ളവരെയും കൂടി ഈ ബില്ലുകൊണ്ട് കർഷകരാക്കിയിട്ടുണ്ട്. അതുപോലെതന്നെ വിപുലമായ വിവാണംകൊണ്ടു ന്നു ശതമാനം ജനങ്ങളെയും കർഷകരാക്കി അവരുടെ എല്ലാ കടങ്ങളെയും കാർഷികക്കടങ്ങളായി നിശ്ചയിച്ചിട്ടുള്ളതും ഈ ബില്ലിന്റെ പ്രത്യേകതയാണ്.

പാട്ടത്തിന്റെ സ്വഭാവമുള്ള എടപാടുകളിൽനിന്നും ഉണ്ടായിട്ടുള്ള കടങ്ങളും ജന്മികടിയാൻ റഗുലേഷന്റെ പരിധിയിൽവരുന്ന കുടിശ്ശികകളും ഈ റഗുലേഷനിലെ രണ്ടാം ഭാഗത്തിനുവേണ്ടി കടങ്ങളാണെന്നു നിശ്ചയിച്ചിരിക്കുന്നു. ഇത് ഏറ്റവും അകൃമവും മറ്റു രാജ്യങ്ങളിലും ബ്രിട്ടീഷ് ഇൻഡ്യൻ പ്രോവിൻസുകളിലും സ്വീകരിച്ചിട്ടുള്ള നിർവചനത്തിനു

[Mr. T. S. Jayantan Namputhiri.]

വിപരീതമാണ്. ഈ വകുപ്പ് ആദ്യം അവതരിപ്പിച്ച ബില്ലിൽ ഉണ്ടായിരുന്നില്ല. സെലക്ട് കമ്മിറ്റിക്കാർ ആദ്യമായി ഈ വകുപ്പു ചേർക്കുന്നതിന് മതിയായ കാരണങ്ങൾ പ്രസ്താവിച്ചിട്ടില്ലെന്നുള്ളതും പ്രസ്താവയോഗ്യമാണ്. കമ്മിറ്റി ഇങ്ങനെ പറയുന്നു:—

"The Committee agree that debts due to Government, Land Revenue and such other items should be excluded altogether from the purview of this Regulation. In regard to the trade debts of an agriculturist, debts due to co-operative societies and debts of the nature of rent, it may be that they should not be treated like ordinary advances of loan made to an agriculturist. But there is no reason why they should be excluded from the purview of the provision for conciliation proposed in part II of this Bill."

ഈണിവാദനപദ്ധതികളെപ്പറ്റി നല്ലവണ്ണം അന്വേഷിച്ചു റിപ്പോർട്ട് തയ്യാറാക്കിയ Agricultural Debt Redemption Committee കാർ ഈ വിഷയത്തെപ്പറ്റി പറഞ്ഞിരിക്കുന്ന അഭിപ്രായം ശ്രദ്ധാർഹമാണ്. അവർ ഇങ്ങനെ പറയുന്നു,

"Rents, Michavaram and other periodical dues arising from transactions of the nature of lease are either fixed from year to year or are fixed periodical payments, being, in essence, a share of the yield of the land and are distinct from obligations arising out of loan transactions."

ബഹുമാനപ്പെട്ട ഹൈക്കോടതിയിൽനിന്നും ഈ ബില്ലിനെപ്പറ്റി തയ്യാറാക്കിയിട്ടുള്ള മെമോറാണ്ടത്തിൽ ഇപ്രകാരം പറയുന്നു.

"The inclusion of rent due under Kanapatom and other leases, which are only the land-lord's share of the produce of the land enjoyed by the tenant, within the ambit of the debt conciliation, may ultimately work injury to the agriculturists themselves. After having enjoyed the full produce of the land, that the tenant should be allowed to dictate to the land-lord that his share of the produce, one which he subsists, may be collected by him in 12 years is certainly a Clause which would soon put an end to these leases"

മേൽപ്പറഞ്ഞ മൂന്നു അഭിപ്രായങ്ങളിൽ ഒട്ടവിലേത്തു രണ്ടും ശ്രദ്ധാർഹവും ഗവണ്മെന്റു പ്രത്യേകം വില കല്പിക്കേണ്ടതുമാകുന്നു. ഇതിൽ കൂടുതൽ പ്രാധാന്യമേറിയ അഭിപ്രായങ്ങൾ ആവശ്യമില്ലെന്നു പ്രത്യേകം പറയേണ്ടതില്ലല്ലോ. അതിനാൽ ജന്മിമാർക്കു ചെയ്യേണ്ട കുടിശ്ശികകളും വെറും പാട്ടക്കാരുകളുടെ സരിച്ചുള്ള ബാധ്യതകളും കടങ്ങളായി പരാഗണിക്കാൻ പാടില്ലെന്നുള്ള എന്റെ അഭിപ്രായത്തെ രേഖപ്പെടുത്തുകയും ഈ കാര്യത്തിൽ ഗവണ്മെന്റു പ്രത്യേകം ശ്രദ്ധവയ്ക്കണമെന്നു അപേക്ഷിക്കയും ചെയ്തുകൊള്ളുന്നു.

കൂടാതെ മുൻപിൽ ബാധ്യതകൾക്കു ഇന്നു കല്പിച്ചിരിക്കുന്ന വ്യത്യാസം ഈ ബില്ലുകൊണ്ട് മാറ്റാൻ ഉദ്ദേശിക്കുന്നത് ഒരിക്കലും സാധ്യ

വായിരിക്കുകയില്ല. ജന്മിക്കിയാൻ റഗുലേഷൻ അനുസരിച്ചു, ജന്മിക്കു ചെല്ലേണ്ട കുടിശ്ശികകൾ ഒന്നാം ബാല്യതയാണ്. ഗവണ്മെൻറിലേക്കു ചെല്ലേണ്ട കരമൊഴിച്ചുള്ള എല്ലാ കടങ്ങളും പിൻ ചാർജ്ജ് മാത്രമേ ആകുന്നുള്ളൂ. ഗവണ്മെൻറിലേക്കു ചെല്ലേണ്ട സംഖ്യകൾ മുഴുവൻ ഈടാക്കുകയും വസ്തുവിലെ ഒന്നാം ബാല്യതയായ ജന്മിക്കരം കൺസിലിയേഷന്റെ അക്രമവും അനീതിപരവും ആയ തീരുമാനങ്ങൾക്കു വിധേയമാക്കുകയും ചെയ്യുന്നത് അക്ഷന്തവ്യമായ ഒരു അപരാധമാകുന്നു.

വെറുവാട്ടവസ്തുക്കളിൽ കുടിയാനവൻ മുതൽ മുടക്കിയിട്ടില്ലാത്ത സ്ഥിതിക്കു യാതൊരു രക്ഷയും ചെയ്തു കൊടുക്കേണ്ട ആവശ്യമില്ല. വസ്തു ഒഴിഞ്ഞുകൊടുക്കാതെ ആദായം എടുത്തു ഉപജീവിക്കുകയും ഈ മാതിരി ആദായം മാത്രംകൊണ്ട് ജീവിതം കഴിക്കുന്ന ഉടമസ്ഥൻ ഒന്നും കൊടുക്കാതിരിക്കുകയും ചെയ്യുന്ന കുടിയാനവൻ നിയമപ്രകാരം ശിക്ഷാർഹനായിരിക്കെ സൗജന്യങ്ങളും സഹായങ്ങളും ചെയ്തുകൊടുക്കുന്നപക്ഷം വസ്തു ഉടമസ്ഥന്മാരുടെ ഭാവി ഭയങ്കരം ആയിത്തീരുന്നതാണ്. നേരിട്ട കൃഷിചെയ്യുന്നില്ലെന്നുള്ള റെറക്കാരണംകൊണ്ട് വസ്തു ഉടമസ്ഥൻ ക്ഷോർഹനല്ലെന്നു വിധിക്കുന്നതും അക്രമമാണ്.

രണ്ടാം ഭാഗം കൺസിലിയേഷൻ ആണ്. ബോർഡുകൾ വിജയകരമായിരിക്കുകയല്ലെന്നുള്ള എന്റെ അഭിപ്രായം മുൻപുതന്നെ രേഖപ്പെടുത്തിയിട്ടുള്ളതാണ്. ബോർഡിന്റെ തിരുമാനത്തിന് സമ്മതിക്കാത്ത ഉത്തമർണ്ണൻ വിധിച്ചിരിക്കുന്ന ശിക്ഷകൾ വളരെ അധികമാണ്. രണ്ടാം ഭാഗം മുഴുവൻ എടുത്തുകളയേണ്ടതാണെന്നുള്ള എന്റെ അഭിപ്രായത്തേ രേഖപ്പെടുത്തിക്കൊള്ളുന്നു.

അവസാനമായി നടപ്പുപണയം പാട്ടച്ചിട്ടിനെപ്പറ്റിയാണ് പറയാനുള്ളത്. റെറി ചൂണ്ടിപ്പറയുന്നയാളി മാറുന്ന ഈ വകുപ്പ് ഒരിക്കലും ന്യായമല്ല. വസ്തു അന്യായിനത്തിലാകാതെ അനുഭവിക്കുന്നതിനുള്ള വ്യവസ്ഥകൾ ചെയ്ത് സഹായിച്ച ഉത്തമർണ്ണനെ ഈ വധം ശിക്ഷിക്കുന്നത് അക്രമമാണ്. ഈ വകുപ്പിനെപ്പറ്റി ധാരാളം വാദപ്രതിവാദങ്ങൾ ഇന്ന് ഇവിടെ നടന്നുകഴിഞ്ഞിട്ടുള്ളതുകൊണ്ട് കൂടുതലായി ഒന്നും പറയണമെന്ന ഞാൻ വിചാരിക്കുന്നില്ല.

ആവശ്യത്തിനു പണം കടം കൊടുത്തു സഹായിച്ച ഉത്തമർണ്ണനെയും വസ്തുക്കൾ കൃഷിക്കു കൊടുത്തു സഹായിച്ച വസ്തു ഉടമസ്ഥനേയും അന്യായമായി ഉപദ്രവിക്കുന്നതിനു ഇടയാക്കുന്ന ഈ ബിൽ സ്വീകാരയോഗ്യമല്ലെന്നുള്ള എന്റെ അഭിപ്രായത്തെ രേഖപ്പെടുത്തുകയും ലാമെമ്പർടെ ഉപക്ഷേപത്തെ എറുക്കുകയും ചെയ്തുകൊണ്ട് ഞാൻ വിരമിക്കുന്നു.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, I support the motion made by the Law Member. It is only to the interests of the parties concerned that they make the best of a bad bargain. The creditors at the outset, are not satisfied with the Bill: the debtors, it would appear, are not completely satisfied with the provisions of the Bill. Whatever may be the level of satisfaction, so far as both parties are concerned, I submit that we must be in a position to level up our differences and accept what has been given to us and work out the intentions to the mutual benefits of the debtors and the creditors. In the first place, there is the provision relating to the Conciliation Boards and the principle involved in it has been well discussed in this House. I believe that the House is convinced of its utility. The Government, I hope will extend the operations of the Boards to all parts of the State, so that the debtors who want relief may appear before them and have their grievances redressed. Extensive and discretionary powers are conferred upon the Boards. If the proper sort of officers are also appointed I am certain the working of the Bill will confer much benefit upon the debtor class. No doubt, the debtors are not satisfied; and though they have claimed for more, the little that has been conferred must go to a great extent in ameliorating the present distress. With regard to the creditors it must not be complained that they have been in any way hard hit by the provisions. The States all over the world have always exercised control over the interest that may be accumulating upon loans advanced by the creditors. The Legislatures have always exercised some sort of control and fixed rates, pointed out the maximum realisable and after all in this Regulation, Clauses 34 to 36, deal only with future interest and that only for three years.

The apprehension that credit will take to wings and creditors will quit the country is a statement that has no meaning. It does not require serious notice. Even under Regulation IV of 1010 there was some sort of control. For more than one hundred years it has been working satisfactorily. By conferment of privileges on the creditors the debtors have not ceased to borrow from the creditors. Even though Banks and Hundi merchants were advancing loans at 8 per cent, Government were able to bring down the level of the ordinary rate of interest by working from through the State-aided Bank. This has not prevented other Banks carrying on their business. There is one Bank in Trivandrum, working side by side with the other Banks, which lends out money at reduced rates of interest. It advances loans at the rate of 6 per cent and they are working side by side with the other Banks which are giving loans at the rate of 12 per cent. I am sure that Government will more seriously take into consideration the idea of establishing a well-stocked Bank in the Trivandrum city.

MR. M. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): May I know the name of the Bank?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon I*): It is the South Indian Bank. If, Sir, the Government would take a keen interest in

the matter of preserving the credit of this country, of getting in more money into the State, I am quite sure that the alarm now set up could be easily met. What we want is more willing money.

We do not want money which clamours for accumulation in the shape of interest and that at exorbitant rates. We want modest money which would be satisfied with moderate rate of interest. Such money must be attracted into our country and retained here. This is a matter in which the Government also should take some interest. The non-officials in the country, the bankers, the borrowers and the creditors have all tried to create a dependable and helpful financing agency. But without Government co-operation, it is difficult to do anything effective in this direction. Therefore along with the very beneficent measure that is now being enacted, Government should also take steps to create a proper financing agency in the country. If that is done I am quite sure the alarm which the creditors threaten us with on the one hand, the dejection which the debtors feel on the other, will all be dispelled, and there will be better co-operation and a better feeling of cordiality among the people.

With these words I support the motion that the Bill be passed.

MR. R. RAMAN PILLAI (*Changanachery cum Peermade II*): Sir, I oppose the passing of this Bill. During the time of the second reading and also during the last two days I have been hearing of expropriation, appropriation and misappropriation. Sir, I do not belong to the legal profession. I am a pure layman. It may therefore be considered that my attempt to enter into this discussion is a trespass, a foolish trespass. Still, I cannot but speak a few words on this occasion.

When the Bill as revised by the Select Committee was placed before this House, we thought that we could get as many Boards as we would require. But the Government were not prepared to do it. Then we thought that the Boards that are established, whatever be their number, would cover the whole State. Even at the second reading the Law Member said that he would not accept that position. In spite of that Mr. T. P. Velayudhan Pillai's amendment, bringing the whole State under the Conciliation Boards, was carried. But now by an amendment, for which I also voted, even that position has been changed. I must explain why I voted for that amendment. Government have clearly stated that they would not constitute as many Boards as are necessary. In such circumstances if the whole State were to be brought under the jurisdiction of just a few Boards, surely the work would be too heavy for the few Boards that are brought into existence, and nothing useful could be expected of them.

I thought, Sir, that at least Clause 34 would be left as we had amended it at the second reading. If we are to be given all the Boards that we require for extending the benefit of conciliation to the whole State, I could have understood Clause 34 being amended as it has been now amended. But, Sir, now the position has been established that all the debtors in the country are not going to get the benefit of conciliation.

[Mr. R. Raman Pillai.]

Therefore it is only fair that such of the debtors as are not given the benefit of conciliation are enabled to get at least the benefit of reduction of interest from 1105.

As it is, Sir, the Bill has become entirely useless. It is nothing more than a mere scrap of paper. It does not benefit the debtor in any respect. But at the same time it has affected the creditor prejudicially since for a few years to come he cannot get his money. Ultimately the debtors are not going to get even a single cash reduced; they will lose their entire property.

Sir, the honourable Law Member was referring to rich debtors. The sun does not shine for the sake of the good alone. He shines for the good as well as for the wicked. I am sorry the Law Member did not remember that.

I oppose the Bill and appeal to the honourable members of the House to throw it out.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): I support the motion, and in doing so I would submit a few words for the immediate consideration of Government.

In the first place, the whole trouble has arisen on account of the existing statutory provision regarding the rate of interest in the Interest Regulation i. e. Regulation I of 1010 M. E. My first submission therefore is that Government should take immediate steps to reduce as a general rule the rate of interest from 12 per cent to 6 per cent. Such a step will surely ameliorate the condition of the entire population of the State. This reduction of the rate of interest will obviously enhance the value of the landed property also.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): On a point of order, whether these grounds are relevant to the motion that the present Bill be passed.

PRESIDENT: Evidently, the honourable member thinks that this Bill may be passed provided the considerations that he is now putting forward are borne in mind.

The member will proceed.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): My second submission is that the Government should reduce as a general rule the rate of interest on deposits in their Savings Banks. Then only the moneyed people will be tempted to invest their money on the landed property. This also will indirectly operate as a substantial relief to the indebted agriculturists in the country.

With these words, I support the motion.

MR. P. C. KURIYAN (*Kottayam I*): I too wish to support the motion. I am very glad, Sir, that the Bill has reached its final stage. We have removed the retrospective provision; but we have retained Clause 19 which gives the power to the Board to reduce interest even from 1105 in deserving cases. Therefore, where necessary, relief has been given to the debtor; at the same time, no injustice has been done to the people who have invested their money. Therefore, there cannot be any question of credit flowing out of the country.

In this connection, I would remind the Government that the Law Member, when he introduced the Bill, said that the additional attraction for the creditor was that although the amount due to him would be reduced, he would get it in cash. But at the second reading of the Bill, when some honourable members proposed amendments to the effect that the State should undertake to advance the money necessary to pay off the conciliated debts, those amendments were ruled out on the ground that they would affect the revenues of the State. I would strongly emphasise that it is the duty of the Government to bring into being some efficient financing agency so that the provisions of the Bill may effectively help all sections of the people.

MR. A. ESWARA PILLAI (*Kalkulam II*): I support the motion moved by the learned Law Member to pass the Travancore Agriculturist's Relief Bill. I am conscious of the fact that the indebted agriculturist of Travancore does not get the full relief that he needs by this piece of legislation. To get the maximum benefit out of the provisions of this Bill, Conciliation Boards may be started as early as possible and adequate funds may be made available in the Land Mortgage Bank to pay off the conciliated debts. The agriculturists of the country are anxiously waiting for the disposal of this question. Therefore earlier this Bill is passed into law the better it is, for delay is dangerous.

MR. K. M. KRISHNAN (*Ambalapuzha II*): സർ, ഞാൻ ഈ പ്രമേയത്തെ അനുകൂലിക്കുന്നു. ഒന്നമില്ലാതെയിരിക്കുന്നതിനെക്കാൾ സ്വല്പം വല്ലതും കിട്ടുന്നതാണല്ലോ നല്ലത്. ഈ ബില്ലുകൊണ്ട് അല്പ സ്വല്പം ചില ഗുണങ്ങൾ മാത്രമേ അയമണ്ണന്മാർക്കുള്ളൂ. കൂടുതൽ ഗുണം ഉത്തമണ്ണന്മാർക്കാണ് കിട്ടുന്നത്. ഏതായാലും അല്പഗുണം കിട്ടുന്നത് കളയാതിരിക്കണമെന്നുള്ള വിചാരത്തോടുകൂടി ഞാൻ ഇതിനെ അനുകൂലിച്ചുകൊള്ളുന്നു.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): I support the motion. I have to make just one observation.

This Bill has had a rather chequered career. At this stage, when we are concluding our labours so far as this Bill is concerned, permit me, Sir, to pay our compliments to our learned Law Member.

Sir, whatever might have been the attitude he took—some might call him very hard hearted, others may say that he is viewing it through the spectacle of a lawyer—whatever it is, the consistency with which he has been piloting this Bill from the start has been marvellous. Sir, he never budged an inch. He stuck to his gun, right up to the last moment. A word of praise is really due to the Law Member for the consistent attitude he took in regard to this Bill. Before I conclude, I wish to bring to the notice of this House and through the House to the Government one point. Our legislative activity has been beset with one baneful result. We have been copying from British India several measures whether we wanted them or not. But after passing those

[Mr. Pacode A. Narayana Pillai.]

measures we used to leave them severely alone. The various rules necessary for implementing these measures are never passed in time. As an instance I shall bring to your notice one outstanding measure which at the time of its passing was hailed with great jubilation. I refer to the Travancore Village Panchayat Regulation. This was passed as early as 1100. The authors of the Bill wanted to create Panchayats in every village in Travancore. But only a couple of years ago Government started four or five Panchayats as an experimental measure. That experimental stage is not yet over. If we pass laws like this and leave them alone without implementing the provisions of these measures, even what little good we hope to get out of them will not be available. So I appeal to this House and through this House to the Government that the necessary forms and rules prescribed by this legislation be immediately framed so that whatever benefit this Bill is intended to confer upon the people might be enjoyed by them at an early date.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, I also wish to add a word in support of the motion. I join my friend in congratulating the Law Member for piloting a Bill of such a nature so successfully through this House. I have to add that this Bill calls for emergent action. I would request Government to see that this Bill is passed through the other House also at the earliest opportunity and that it is passed into law without any delay. The matter is very urgent and debtors, creditors and the general public are kept in suspense. I only request the Government to see that the Bill is brought into effect at the earliest possible opportunity.

MR. N. E. VARUGHESE (*Tiruvalla I*): Sir, I oppose the motion. From the very start I took a pessimistic view about this matter. The provisions contained in the original Bill were quite inadequate to meet our wishes. I tried to move certain amendments in the Select Committee but I could not carry them. At the second reading stage I hoped that I would be able to do so. I had some hopes that the provisions of the Bill as altered at the second reading would give some relief to the agriculturists. But now the Bill has been restored to its original position. During the course of the discussion in this Assembly I am sorry I had to express an opinion that I suspect the sincerity of the Government in this matter. I may be pardoned for such an expression. If I have to repent for that expression, when it is ultimately found that I was mistaken, I will be the first to come forward and do so. The provisions concerning conciliation and the establishment of Conciliation Boards are not at all satisfactory. I have no faith in Conciliation Boards as I had stated in my note to the report of the Select Committee. I do not believe that the Bill as it stands now will be of any good to the agriculturists.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): Sir as the Chairman of the Select Committee which sat on this Bill it is my duty to express my approbation and admiration of the manner in which

the Law Member and the other members of the Select Committee did their work? As I said yesterday we had many prolonged sittings. We had to adjudicate upon conflicting principles without ignoring the claims of law, economics, politics, and every subject which came under the purview of this Bill. This Bill will emerge from this House in a form which I trust will meet with the approval of the world. As an equitable compromise between conflicting claims of creditors and debtors for the good of the country this measure will be approved by all. The Government has been anxious to push it through by convening emergent sessions of the Assembly. In this particular case the promptitude of Government is commendable. I would appeal to the House to pass this Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I must at the out set express my sincere gratitude to the honourable members for their kind words in regard to me. It is not necessary for me to deal at length with the details of the Bill. I see that debtors as well as creditors are dissatisfied with this Bill. If both of them are dissatisfied, Government, I believe, must be right in getting this Bill passed. Some members were opposed to Clause 34 of the Bill and they went to the extent of saying that the Bill may be thrown out if Clause 34 is to remain. If my view is right, this Bill will help the poor man, the poor toiler who is the backbone of the country. And it is he that should be helped by this House. I hope the House will vote in favour of my motion.

The motion was put to vote and carried.

(At this stage the Deputy President took the Chair.)

THE TRAVANCORE BOILERS BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, the Travancore Boilers Bill has passed the consideration stage and the motion for passing the Bill has not yet been passed. When I made the motion on the last occasion there was certain objection in regard to the short title of the Bill. I wish to disarm that opposition by bringing a motion myself for amending the short title. In view to that, I beg to move the following amendment:

"In Clause 1, sub-clause (i), for the figure '1110' substitute the figure '1112'".

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The motion was put to vote and carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move that the Bill as amended be passed into law.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The motion was put to vote and carried.